

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

CrI.MC.No. 2737 of 2007()

CC.808/2001 of JUDL.MAGISTRATE OF FIRST CLASS, KOYILANDY
.....

PETITIONER/ACCUSED:

MUHAMMED SHAHIN.M.K.,
S/O.KADAR, S.VILLA,
VELOOR AMCOM, KOLAKKAD DESOM,
KOYILANDY TALUK, KOZHIKODE DT.

BY ADV. SRI.P.SANJAY
SRI.M.MUHAMMED SHAFI

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
STATION HOUSE OFFICER, ATHOLI,
POLICE STATION THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2737 of 2007

Dated this the 24th day of August 2007

O R D E R

The petitioner, along with the co-accused faces indictment as accused in crime No.161/01 of Atholy police station. The petitioner was the fifth accused. Final report was filed. Cognizance was taken by the learned Magistrate but the petitioner was not available for trial. The case against the co-accused has already been disposed of. They have been found guilty of some offences. They have been found not guilty and acquitted of the other offences alleged against them. The case against the petitioner has been split up. The case against the petitioner is now pending as C.C.No.731/2005. Coercive processes have been issued by the learned Magistrate against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful. He is willing to co-operate with the court for the expeditious disposal of the case. He undertakes to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the

learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007